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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,606	09/23/2003	David John McCullough	713-886	9742
33712	7590	12/28/2005	EXAMINER	
LOWE, HAUPTMAN, GILMAN & BERNER, LLP (ITW) 1700 DIAGONAL ROAD SUITE 300 ALEXANDRIA, VA 22314				KOEHLER, CHRISTOPHER M
		ART UNIT		PAPER NUMBER
				3726

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/667,606	MCCULLOUGH, DAVID JOHN	
	Examiner	Art Unit	
	Christopher M. Koehler	3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 December 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
 - 4a) Of the above claim(s) 8-12 and 14 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2 and 13 is/are rejected.
- 7) Claim(s) 3-7 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 September 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/4/04</u> . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of **Group I** claims 1-7 and 13 in the reply filed on December 2, 2005 is acknowledged. The traversal is on the ground(s) that the groups are not materially different. This is not found persuasive because **Group I** requires a rotational and axial bias in the spring and **Group III** requires a rotational and *forward* axial bias in the spring, as well as, **Group I** requires that the mounting is lockable *to* a housing and **Group IV** requires that the mounting is lockable *into* a housing. Furthermore, **Group III** requires that the mounting is lockable *to* a housing and the spring has a rotational and *forward* axial bias, whereas **Group IV** requires that the mounting is lockable *into* a housing and that the spring has a rotational and axial bias. The examiner has included the previously restricted **Group II** within **Group I** based on applicants' amendments thereto.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "10" and "12" have both been used to designate a charge strip in figure 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each

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drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1, 2 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Applicant Admitted Prior Art (AAPA) in view of Mizek et al (US Patent No. 6,634,349)**. AAPA teaches explosively actuated tools for driving fasteners into substrates. It is taught that such devices conventionally comprise a driving piston that is driven forwardly along the barrel of the tool upon detonation of a charge to drive a fastener into a substrate. AAPA teaches a firing mechanism including a firing pin a rotary sear pivotal between a first position where the sear entrains the firing pin and a second position in which the sear is release whereby the firing pin is driven towards the charge to fire the charge and wherein the rotary sear is carried by a cocking rod and is subject to a rotational and axial bias by a spring anchored at one end relative to the cocking rod and at the other end by a blind bore (page 1, line 10-page 2, line 6). AAPA does not teach a mounting being rotatable to apply torsional loading to the spring

and being lockable to a housing of the cocking rod in an angular orientation in which the torsional loading is maintained in the spring. Mizek teaches a move away arrow rest having a cap (78) attached to a shaft (45) which houses a spring (73). The cap is rotatably mounted and one end of the spring is securely mounted the cap while the other is mounted to the shaft. The cap provides a means for adjusting the torsion of the spring that is applied to the shaft. After the desired torsion is applied to the spring a screw may be used to secure the cap with respect to the shaft (**col. 8, line 43-col. 9, line 9**). It would have been obvious to one of ordinary skill in the art to apply the adjustable torquing cap of Mizek to the device of AAPA in order to provide a way of adjusting the torsion and compression of the spring to a desired range for a given purpose. Be it known to the applicant that the examiner finds the art to be analogous in that both solve the problem of adjusting the torque and therefore the compressive force of a spring in a device.

Allowable Subject Matter

5. **Claims 3-7** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record in this application does not teach that the cap is inserted into a cylindrical passage in the housing and is releasably locked within the passage at a predetermined angular orientation.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Koehler whose telephone number is (571) 272-3560. The examiner can normally be reached on Mon.-Fri. 7:30A-4:00P.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Jimenez can be reached on (571) 272-4530. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher M. Koehler
December 19, 2005

CMK

Marc Jimenez
MARC JIMENEZ
PRIMARY EXAMINER
12-19-05